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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,066	11/12/2003	Erol Bozak	09700.0031-00	6345
60668 7590 01/16/2008 SAP / FINNEGAN, HENDERSON LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER CHEEMA, UMAR	
			ART UNIT 2144	PAPER NUMBER
			MAIL DATE 01/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Office Action Summary</p>	Application No. 10/706,066	Applicant(s) BOZAK ET AL.	
	Examiner Umar Cheema	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) <input type="checkbox"/> Notice of Informal Patent Application
6) <input type="checkbox"/> Other: _____ |
|---|--|

DETAILED ACTION

Response to Amendment

1. This action is response to the Amendment filed on 29 October 2007. Claims 1 and 6 has been amended. Claim 2 has been canceled without prejudice or disclaimer. Accordingly, claims 1 and 3-8 remain pending.

Response to Arguments

2. Applicant's arguments and amendments with respect to claims 1, 2-8, filed on 29 October 2007 have been carefully considered but they are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 6-8 are rejected under 35 U.S.C. 101 because the claimed invention is to non statutory subject matter. The claims are directed to a computer program product embodied in a computer-readable storage device. However, according to page 14 lines 5-9, the embodiment of the invention can be implemented in a propagated signal. Accordingly, a computer program product embodied in a propagated signal is non-patentable subject matter. Therefore the claim as whole are found to be directed to a non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1 and 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naik et al (Naik) (US 2006/0294238) in view of Burnett et al (Burnett) (US 2004/0225711).

Regarding claim 1, Naik discloses a network comprising: plurality of computer systems; and a plurality of manager services, each associated with one of the computer system (see par. 0048; figure 1; resource managers) the manager services handling at least locating, reserving, allocating, monitoring, and deallocating one or more computational resources, of the respective associated computer system; the manager services: (see par. [0025-0032]; key components of the present invention), upon receipt of a command

requesting a resource, loading new instructions to modify original instructions residing in a computer system to modify the behavior of the one or more computational resources of the computer system (see par. 0013, 0024-0025; routing of grid client request to the best available grid resources); and reverting the new instructions in the computer system to the original instructions without restarting the computer system (see par. [0032]; grid resource management system and client management system).

Naik substantially discloses the invention as claimed above for the given reason however Naik does not disclose wherein said plurality of computer systems. However in the same field of invention Burnett discloses wherein said plurality of computer systems (see abstract, par. 0011; a grid manager computer and grid computers utilizing a communications network).

It would have been obvious to one of the ordinary skill in the art of networking to combine the teaching of Naik and Burnett for a maintainable grid Management system. Motivation for doing so would have been the system provides the users of the grid with option to select between various levels of computer security, performance, and availability in performing jobs submitted to the grid (see Burnett: par. 0009).

Regarding claim 2 (Canceled).

Regarding claim 3, Naik discloses a method comprising: receiving a message having a command for a service that handles locating, reserving, allocating, monitoring, and deallocating one or more computational resources for an application running on a

computer in a network (see par. [0025-0032]; client request manager, key components of the present invention); loading a first set of instructions from a location remote from the service in response to the command (see par. [0013-0014, 0128]; accessing remotely); replacing a portion of instructions for the service with the first set of instructions; and executing the service according to the first set of instructions (see par. [0034, 0036]).

Naik substantially discloses the invention as claimed above for the given reason however Naik does not disclose wherein said replacing a portion of instructions for the service with the first set of instructions. However in the same field of invention Burnett discloses wherein said replacing a portion of instructions for the service with the first set of instructions (see par. [0044]).

It would have been obvious to one of the ordinary skill in the art of networking to combine the teaching of Naik and Burnett for a maintainable grid Management system. Motivation for doing so would have been the system provides the users of the grid with option to select between various levels of computer security, performance, and availability in performing jobs submitted to the grid (see Burnett: par. 0009).

Regarding claim 4, the limitations of this claim has already been addressed (see claim 3 above).

Regarding claim 5, Naik discloses the method of claim 3 further comprising: modifying a relationship between the service and a second service in response to the command

(see par. [0124]), wherein the second service comprises locating, reserving, allocating, monitoring, and deallocating one or more computational resources for an application running on a computer in the network (see par. [0025-0032]; key components of the present invention).

Regarding claim 6, Naik discloses a computer program product tangibly embodied in a computer-readable storage device, the computer program product having instructions operable, when executed by a processor, to cause a data processing apparatus to perform a method, comprising (see pg. 1, par [0011]): receiving a message having a command for a service comprises locating, reserving, allocating, monitoring, and deallocating one or more computational resources for an application running on a computer in a network (see pg. 2-3, par. [0025-0032]; client request manager, key components of the present invention); loading a first set of instructions from a location remote from the service in response to the command (see par. 0013, 0024-0025; routing of grid client request to the best available grid resources); replacing a portion of instructions for the service with the first set of instructions; and executing the service according to the first set of instructions (see pg. 3, par. [0036]).

Naik substantially discloses the invention as claimed above for the given reason however Naik does not disclose wherein said a computer program product tangibly embodied in a computer-readable storage device. However in the same field of invention Burnett discloses wherein said a computer program product tangibly

embodied in a computer-readable storage device (see par. 0013; a computer medium is disclosed that tangibly embodies a program of instructions).

It would have been obvious to one of the ordinary skill in the art of networking to combine the teaching of Naik and Burnett for a maintainable grid Management system. Motivation for doing so would have been the system provides the users of the grid with option to select between various levels of computer security, performance, and availability in performing jobs submitted to the grid (see Burnett: par. 0009).

Regarding claim 7, the limitations of this claim has already been addressed (see claim 6 above).

Regarding claim 8, Naik discloses the computer program product of claim 6 wherein the computer program product is further operable to cause a data processing apparatus to modify a relationship between the service and a second service in response to the command (see par. [0124]), wherein the second service comprises locating, reserving, allocating, monitoring, and deallocating one or more computational resources for an application running on a second computer in the network (see par. [0025-0032]; key components of the present invention).

Response to Arguments

5. Applicant's argument filed on 29 October 2007 have been fully considered but they are not persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiners think it is prudent to address applicant's main point of contention. Applicant's argument includes:

- a. Regarding claim 1, Applicant argues that Naik does not teach or suggest: "loading new instructions to modify original instructions residing in a computer system to modify the behavior of the one or more computational resources of the computer system; and reverting the new instructions in the computer system to the original instructions without restarting the computer system."
- b. Regarding claim 3 and 6, Applicant argues that Naik does not teach or suggest: "loading a first set of instructions from a location remote from the service in response to the command; replacing a portion of instructions for the service with the first set of instructions; and executing the service according to the first set of instructions."

As for Point A, it is Examiner's position that Naik in view of Burnett disclose "loading new instructions to modify original instructions residing in a computer system to modify the behavior of the one or more computational resources of the computer system (see Naik: par. 0013, 0024-0025; routing of grid client request to the best available grid resources); and reverting the new instructions in the computer system to the original instructions without restarting the computer system (see Naik: par. [0032]; grid resource management system and client management system). Thus it is Examiners position that the 35 U.S.C 103 (a) rejection is proper.

As for Point B, it is Examiner's position that Naik in view of Burnett disclose loading a first set of instructions from a location remote from the service in response to the command (see Naik: par. [0013-0014, 0128]); replacing a portion of instructions for the service with the first set of instructions (see Burnett: par. [0044]); and executing the service according to the first set of instructions (see Naik: par. [0034, 0036]). Thus it is Examiners position that 35 U.S.C 103 (a) rejection is proper.

6. Examiner's Note: Examiner has cited particular paragraphs, figures, columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

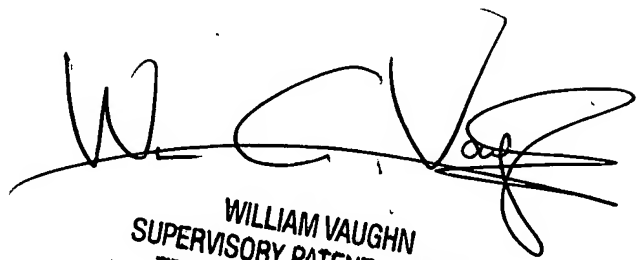
Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umar Cheema whose telephone number is 571-270-3037. The examiner can normally be reached on M-F 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn, Jr. can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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